

FILED

APR 27 2015

Clerk, U.S. District Court  
District Of Montana  
Missoula

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
BILLINGS DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

KIMBERLY ANN DAHL,

Defendant.

Cause No. CR 13-105-BLG-DWM

ORDER

On April 22, 2015, Defendant Dahl, acting pro se, filed a motion asking the Court to award her credit for the time she served in custody prior to her sentencing in this Court on April 16, 2014.

The Court has no authority to grant Dahl credit for that time. *See Schleining v. Thomas*, 642 F.3d 1242, (9th Cir. 2011). "A federal sentence cannot commence prior to the date it is pronounced, even if made concurrent with a sentence already being served." *United States v. Flores*, 616 F.2d 840, 841 (5th Cir. 1980), *quoted in Schleining*, 642 F.3d at 1244. The Bureau of Prisons has exclusive authority to decide whether a federal prisoner is entitled to credit for time served before the federal sentence is pronounced. *United States v. Wilson*, 503 U.S. 329, 333 (1992); 18 U.S.C. § 3585(b). Because Dahl has not received credit against her federal sentence for the time period between the date of her arrest on a federal warrant on November 29, 2013, and her sentencing on April 16, 2014, presumably she

received credit against her state sentence for that time. 18 U.S.C. § 3583(b) provides that she is not entitled to credit against both her state and federal sentences, even though they are running concurrently.

If Dahl did not receive credit against either her state sentences or her federal sentence for the time between November 29, 2013, and April 16, 2014, she may have a viable claim, but she must pursue that claim through the Bureau of Prisons and possibly through a petition under 28 U.S.C. § 2241 in the federal district court where she is incarcerated. This Court cannot do what Dahl asks.

Accordingly, IT IS HEREBY ORDERED that Dahl's motion for credit for time served (Doc. 34) is DENIED.

DATED this 27<sup>th</sup> day of April, 2015.



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Donald W. Molloy  
United States District Court